

du



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,695	07/21/2003	David S. Benco	LUTZ 2 00217	6505
7590 05/25/2006			EXAMINER	
Richard J. Minnich Fay, Sharpe, Fagan, Minnich & McKee, LLP Seventh Floor 1100 Superior Avenue Cleveland, OH 44114			PHAN, HUY Q	
			ART UNIT	PAPER NUMBER
			2617	
DATE MAILED: 05/25/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/623,695	BENCO ET AL.	
	Examiner	Art Unit	
	Huy Q. Phan	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-17 is/are allowed.
- 6) ☒ Claim(s) 1,3-10,18 and 21 is/are rejected.
- 7) ☒ Claim(s) 2,19 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This Office Action is in response to Amendment filed on date: 04/12/2006.
Claims 1-21 are still pending.

Response to Arguments

2. Applicant's arguments, see remarks, filed on 04/12/2006, with respect to the rejection(s) of claim(s) 1, 4, 9, 10 and 18, have been fully considered but they are not persuasive.

a) In response to Applicant's arguments with regard to the rejections of claims 1, 4, 9, 10 and 18 that "a service plan and a directory number are not analogous" (see REMARKS page 7), the examiner respectfully disagrees. Gentry discloses that "The information associated with any particular subscriber is typically maintained in a record referred to as a `profile`, which includes such information as the mobile identification number (cell phone number), what features or services are associated with the subscriber, such as call forwarding, call waiting, or caller identification, for example, and billing information associated with the cellular subscriber" (see col. 4, lines 20-34). Since the directory number includes services (i.e. call forwarding, call waiting, caller identification, and billing information) available to the user, the directory number is interpreted as the user's service plan. Therefore, the service plan and the directory number are analogous.

Applicants argued that Gentry does not disclose or suggest receiving a request to create a temporary service plan (see REMARKS page 7) and creating a temporary service plan (see REMARKS page 8). The examiner respectfully disagrees, while Gentry discloses that "The subscriber uses a WEB browser to enter relevant information, such as a date range during which the local number will be used by the subscriber, and billing information of the subscriber, in the HTML page (interpreted as "creating a temporary service plan"). The information entered by the subscriber is then sent to the WEB server. The WEB server can then generate the appropriate HLR access message(s) to carry out the subscriber's request and send it to a wireless component (interpreted as "receiving a request to create a temporary service plan"), such as an HLR or a mobile telephone switching office (MTSO)" (see col. 3, lines 6-12).

The examiner contends that "enter relevant information, such as a date range during which the local number will be used by the subscriber, and billing information of the subscriber, in the HTML page" is related to "creating a temporary service plan".

In response to Applicant's arguments with regard to the rejection of claim 18 that "Gentry does not disclose or suggest processing a call and determining charges according to a temporary service plan if a temporary service plan is in effect" (see REMARKS page 12); while Gentry discloses that "the subscriber must identify a wireless service provider in Raleigh, call the provider, determine if the provider's charge for a temporary number is acceptable" (see col. 6, lines 47-51).

b) Applicant's arguments with respect to claims 3, 5-8 and 21 have been considered but are moot in view of the new ground(s) of rejection.

c) Applicant's arguments, with respect to the rejection(s) of claim(s) 2 and 11-17, have been fully considered and are persuasive.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4, 9, 10 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Gentry (US-6,453,162).

Regarding claim 1, Gentry discloses a method for creating a temporary service plan for a subscriber of a wireless service provider when the subscriber currently has a normal service plan with the wireless service provider (col. 6, lines 32-55), the method including the steps of:

a) receiving a request to create the temporary service plan from a user (col. 3, lines 6-12);

b) retrieving the subscriber's normal service plan from a subscriber database (col. 4, line 20-col. 5, line 20);

c) providing a change selection menu to the user in response to the request (col. 2, line 63-col. 3, line 5; also see col. 5, lines 43-67);

d) modifying the normal service plan in conjunction with one or more user selections associated with the change selection menu to create the temporary service plan (col. 3, lines 1-16); and

e) storing the temporary service plan in the subscriber database (col. 3, lines 1-16; also see col. 5, lines 43-67).

Regarding claim 4, Gentry discloses the method as set forth in claim 1, further including: verifying the user has authority associated with the subscriber to create the temporary service plan ("usercode and password" see col. 5, line 35-42).

Regarding claim 9, Gentry discloses the method as set forth in claim 1 wherein the change selection menu provided to the user includes a portion for selection of a quantity of airtime associated with a predetermined period of calendar time (col. 3, lines 1-12 and col. 6, lines 32-55).

Regarding claim 10, Gentry discloses the method as set forth in claim 1 wherein the change selection menu provided to the user includes a portion for selection of a date for expiration of the temporary service plan (col. 3, lines 1-12 and col. 6, lines 32-55).

Regarding claim 18, Gentry discloses a method for processing a call from a mobile station in a wireless network when the call is associated with a subscriber having

Art Unit: 2617

a normal service plan with a wireless service provider associated with the wireless network (col. 6, lines 32-55), the method including the steps:

- a) receiving the call from the mobile station (col. 6, lines 47-51);
- b) determining if the subscriber has a temporary service plan that is in effect with the wireless service provider (col. 6, lines 47-51); and
- c) if a temporary service plan is in effect, continuing to process the call and determining charges for the call according to the temporary service plan (col. 6, lines 32-55).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

a) Claims 3, 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gentry in view of Rosenberg (US-2003/0013434).

Regarding claim 3, Gentry discloses the method as set forth in claim 1 wherein the user transmits the received request to create the temporary service plan associated with the subscriber's normal service plan (col. 3, lines 1-16). But, Gentry does not particularly show using a mobile station to transmit the request. However in analogous art, Rosenberg teaches using a mobile station to transmit the request ([0044] and

[0024]); therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Gentry as taught by Rosenberg in order to “enable a wireless device user to select a wireless service plan on a web site, provide device-specific, personal, and financial information on the web site, and receive an activation code to automatically activate the wireless service plan for use on the wireless device” [0015].

Regarding claim 5, Gentry discloses the method as set forth in claim 1 wherein the request from the user is via a call to one of a switching center, a peripheral device and an auxiliary component (col. 2, lines 1-12). But, Gentry does not particularly show wherein the request from the user is via a call to one of a switching center, a peripheral device and an auxiliary component associated with the wireless service provider from a telephone device. However, Rosenberg teaches wherein the request from the user is via a call to one of a switching center, a peripheral device and an auxiliary component ([0051]-[0053]) associated with the wireless service provider (fig. 2, 34) from a telephone device (fig. 1, 30e); therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Gentry as taught by Rosenberg in order “for wireless service providers to automatically activate wireless services for wireless device users without requiring human interaction or time delays in activating the services” [0012].

Regarding claim 7, Gentry and Rosenberg disclose the method as set forth in claim 5. Gentry further discloses wherein the change selection menu provided to the user includes an interactive graphical display portion (col. 2, line 63-col. 3, line 5; also see col. 5, lines 43-67).

Regarding claim 21, Gentry discloses a method for providing subscriber the method comprising:

service plan flexibility to a wireless service establishing a normal service plan having a normal plan start date and a normal plan end date in association with a directory number (col. 3, lines 1-16 and col. 6, lines 32-55);

establishing a temporary service plan (col. 3, lines 1-16; also see col. 5, lines 43-67);

associating a temporary plan start time or date with the temporary service plan (col. 3, lines 1-16; also see col. 5, lines 43-67);

associating a temporary plan expiration time and/or date with the temporary service plan, wherein the temporary plan start time or date and expiration time or date are between the normal plan start and end dates (col. 3, lines 1-18 and col. 6, lines 32-55);

billing calls according to the temporary service plan if a current time is within a range associated with the temporary plan start time and/or date and the temporary plan expiration time and/or date (col. 3, lines 1-18 and col. 6, lines 32-55); and

billing calls according to the normal plan if the current time is outside the range associated with the temporary plan start time and/or date and the temporary plan expiration time and/or date (col. 3, lines 1-18 and col. 6, lines 32-55).

But, Gentry does not particularly show establishing a temporary service plan in association with the same directory number. However, Rosenberg teaches establishing any selected service plan (inherently as “a temporary service plan”, since “users may add or change a service plan at any time after purchase” see [0009]) in association with the same directory number ([0018]-[0019]); therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Gentry as taught by Rosenberg for the purpose of reducing the complexity in process of creating the temporary service plan, since “users may add or change a service plan at any time after purchase” for the same directory number.

b) Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gentry and Rosenberg in view of Son (US-6,212,408).

Regarding claim 6, Gentry and Rosenberg disclose the method as set forth in claim 5, except particularly showing wherein the change selection menu provided to the user includes an automated interactive audio portion. However, Son teaches wherein the change selection menu provided to the user includes an automated interactive audio portion (col. 15, lines 50-58); therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Gentry and

Rosenberg as taught by Son for the purpose of offering the user the hands-free capabilities by allowing the voice in making the selection.

c) Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gentry in view of Hymel (US-2001/0180648).

Regarding claim 8, Gentry discloses the method as set forth in claim 1, except wherein the change selection menu provided to the user includes a portion for selection between a nationwide plan and a local plan. However, Hymel teaches wherein the change selection menu provided to the user includes a portion for selection between a nationwide plan (inherently as "long distant phone call service") and a local plan [0029]; therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Gentry as taught by Hymel for the purpose of providing the full range of services with the most cost effectiveness.

Allowable Subject Matter

5. Claims 2, 19 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reason for the indication of allowance:

Applicant's arguments, see REMARKS (pages 8-9), filed on 04/12/2006, with respect to the rejection(s) of claim(s) 2 have been fully considered and are persuasive.

Claims 19 and 20 are allowed with the same reasons set forth in the Office
Action mailed 10/14/2005 (page 9).

Reasons for Allowance

6. Claims 11-17 are allowed.

The following is a statement of reason for the indication of allowance:

Applicant's arguments, see REMARKS (page 11, lines 7-10), filed on 04/12/2006, with respect to the rejection(s) of claim(s) 11 have been fully considered and are persuasive.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a) Dahm discloses "the mobile subscriber with account services such as user account information and user controllable service requests, such as switching from one calling plan to another" (see specification).

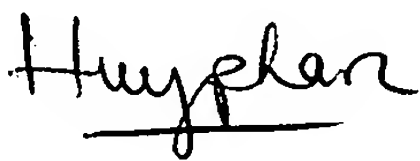
b) Segal discloses that "Different service providers 30 preferably sell different replaceable airtime cartridges 52, selectively providing different levels of service, such as for national coverage, local coverage, or overseas service, depending on the operator, copolicy, and target market" (see specification).

Art Unit: 2617

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy Q Phan whose telephone number is 571-272-7924. The examiner can normally be reached on 8AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

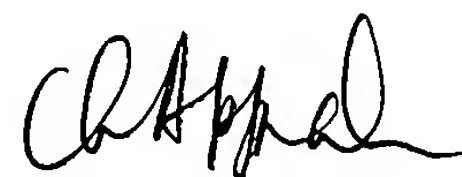
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Examiner: Phan, Huy Q.

AU: 2687

Date: 05/18/2006



CHARLES APPIAH
PRIMARY EXAMINER